

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

BACKWARD CLASSES WELFARE DEPARTMENT – Appeal Petition filed by Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist. against the Proceedings Rc.No. Rcc.No.5(M)/623/ 2008, dt:14.6.2009 of the Collector and District Magistrate, SPS Nellore District – Appeal allowed – Orders – Issued.

BACKWARD CLASSES WELFRARE (C1) DEPARTMENT

G.O.Ms.No. 10

Dated: 26 .3.2010

Read the following:

Ref:-1)Proceedings of the Collector District Magistrate, SPS Nellore, Proceedings No. Rc.No. Rcc.No.5(M)/623/ 2008, dt:14.6.2009
2) Appeal Petition filed by Sri Dakavaram Bujjaiah, S/o.Guravaiah, R/o.Allur (V&M), SPS Nellore Dist dt.22.06.2009
3) Govt., Memo.No.2448/C1/2009, dt:04.07.2009
4) From the Collector & District Magistrate, SPS Nellore, Rc.C5(M)623/2008, dt:15.07.2009
5) Memo.No.2448/C1/2009,Dated: 25.08.2009 & 17.09.2009.
6) Memo.No.2448/C1/2009,Dated: 10.12.2009
7) From the Collector & District Magistrate, SPS Nellore, Rc.C5(M)623/2008, dt:31.1.2009
8) Govt., Memo.No.2448/C1/2009, dt:9.3.2009.

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O R D E R:

The Collector & District magistrate .SPS Nellore has received a complaint from Sri Diddi Sriramulu, R/o Allur(V&M), SPS Nellore questioning the Perika (BC) caste status of Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist. The Collector & District magistrate .SPS Nellore has requested the RDO, Kavali to make field enquiry regarding the caste status of Sri Dakavaram Bujjaiah. The RDO, Kavali has furnished the enquiry report stating that he has conducted Grama Sabha in Allur Village and the residents of village has stated that, Sri Dakavaram Bujjaiah belongs to Perika Caste as per their knowledge.

2. The Village Revenue Officer, Allur has stated that Sri D.Bujaiah has been residing in the village for the last 30 years and he has matrimonial relations with the families having surnames Parisenati and Ramisetti. As per records, the persons having such surnames belongs Perika caste. The birth place of Sri D.Guravaiah, father of Sri D.Bujaiah is Alurupadu of Kodavaluru(M) and they had migrated to Allur Village 30 years back. Sri D.Bujaiah had also migrated to Allur village along with his father and residing there since then. The caste of some of the children of D.Guravaiah was mentioned as Balija and for some other as Perika in Birth Register. Sri Degapudi Venkaiah, Grama Sarpanch of Alurupadu has stated that the people with surname Dakavaram belong to Perika Caste. He is very much familiar with the parents of Dakavaram Bujjaiah in Alurupadu (V). Their forefathers were migrated from Athmakuru (M) of Kurnool Dist., and Sri.D.Bujaiah had his marriage in Allur and staying at Allur for the last 30 years.

3. The Panchayath Secretary, Alurupadu, Kodavaluru (M), Sri.Shaik Osman Ahmed has stated that the family members of Dakavaram are enjoying the social status as Perika for the last 30 years.

4. Sri K.Veeraiah, Rtd. Tahasildar had stated that he has worked as MRO from 1998 to 2002. He had issued Perika BC Caste Certificate to Sri.D.Bujaiah basing on the recommendations of subordinate officers and also by conducting an inquiry. Smt.Parisinati Sri Laxmi Kumari, daughter-in-law of Sri D.Bujaiah was also issued a temporary Perika BC Caste Certificate.

5. The enquiry officer had also recorded the statement of Sri.D.Bujaiah. Sri.D.Bujaiah has stated that, their ancestral residence was Erraguduru in Kurnool District. Later they settled in Alurupadu (V) in SPS Nellore District. His father was a Maistry. After his father's death, he was looked after by his maternal aunt at Allur (V) and married her daughter. He had matrimonial relations with the families having surnames of Parisineti and Ramisetti. Both of them are recognized as Perika a BC caste. He had contested in the elections in August, 2006 as the post of Sarpanch was allotted to BCs. He alleged that, Sri.D.Sriramulu leveled allegations due to old rivalry.

6. During the enquiry, Sri D.Bujaiah and the petitioner Sri D.Sriramulu were invited to attend the enquiry by the RDO, Kavali. But, the complainant Sri D.Sriramulu did not attend the enquiry.

7. The RDO, Kavali has further stated that based on available records and as per the statement of the villagers, he is of the opinion that Sri.D.Bujaiah belong to Perika caste. But, his father's caste was mentioned as Balija in the Birth and Death Registers at Alurupadu. This has created an ambiguity in deciding as to whether Sri.D.Bujaiah belongs to Perika BC or Balija OC. The RDO recommended to the Collector, SPS Nellore to put the issue before District Level Scrutiny Committee.

8. After conducting of detailed enquiry, examining the reports of the Revenue Divisional Officer, Kavali, the DLSC has observed that the caste of an individual cannot be changed from OC Balija to Perika BC by virtue of migration. While applying for Ration Card in Alluru Panchayat, Sri D.Bujaiah has mentioned that he belong to Balija caste in the application form. Basing on the facts, the DLSC has opined that Sri D.Bujaiah had obtained false BC-Perika Caste Certificate from the MRO, Allur with an intention to contest in the elections of Gram Panchayat in which the Sarpanch post was reserved to BCs. The DLSC has recommended to cancel the false BC Caste Certificate obtained from the MRO, Allur vide Lr.No.85/2000, dt.28.12.2000 under AP SC, ST, BC Regulation of Issue of Community, Nativity and Date of Birth Certificate Act and G.O.Ms.No.58, SW (J) Dept., dt:12.5.1997.

9. After receiving the report from RDO, kavali and based on the opinion from the DLSC, the Collector& District Magistrate, SPS Nellore has cancelled the BC Caste certificate issued by the then MRO, Allur, SPS Nellore Dist issued in favour of Sri Dakavaram Bujaiah.

10. Aggrieved by the orders of the Collector & District Magistrate, SPS Nellore,Sri Dakavaram Bujaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist., has filed an Appeal petition before the Government on 22.6.2009 under Rule 11 of the AP SCs,STs & BCs Issue of the community, Nativity & date of Birth Certificate Rules,1977, and requested to suspend the orders passed by the District Collector, SPS Nellore District, pending disposal of the Appeal Petition and pass such other suitable order or orders in the circumstances of the case.

11. The Appeal Petition filed by Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist. in the reference 2nd read above was taken on file of the Government and called for the records in the reference 3rd read above.

12. In the reference 4th read above, the Collector & District Magistrate, SPS Nellore has furnished the records along with Para-wise remarks on the appeal petition.

13. The applicant in his appeal petition has submitted the following grounds in support to his caste claim:-

a) The order of the District Collector, SPS Nellore is illegal, arbitrary and contrary to the procedure prescribed in the AP (SC, ST & BC) Regulation of issue of Community Certificate Act, 1993 and rules 1997.

b) The District Level Scrutiny Committee failed to appreciate that the appellant Sri D.Bujjaiah, has discharged the burden of proof by producing the documentary evidence and oral evidence to establish that he belongs to perika community.

c) The DLSC did not furnish the copy of the complaint filed by Sri.D.Sriramulu. The report of the RDO, Kavali dt:9.2.2009 is also not furnished. Hence, the order suffer from the principles of natural justice and is liable to be set aside.

d) The DLSC ought to have seen that the appellants date of birth was 15.9.1952. The birth of the appellant was not recorded in the births & Deaths Register of Allurpadu Village, Kodavaluru Mandal. There is no material before the DLSC to come to a conclusion that the name of the appellant was recorded in Allurupudu village Births & Deaths Register of 1952 as 'Balija'. Even, other wise, of any material was produced by the Complainant, it cannot be acted upon, unless a copy of the same is furnished to the appellant.

e) With regard to the declaration made by the appellant in respect of issuance of Ration Card, the appellant has stated that this clerk Shaik Abdul Sharif has signed the declaration form in the first instance wherein the caste was shown as 'Balija'. The said form was filled up by someone initially and signed by the appellants clerk. After a few days, the authorities called the appellant and obtained his signature on the said form stating that his clerk signature is not valid and his signature was required. At that time, without verifying the details shown in Form-I, the appellant signed the form. In the declaration form, (there is no signature of the officials with regard to the enquiry).

f) The District Level Scrutiny Committee ought to have seen that the declaration form of the applicant's relatives which are filed by the appellant, which shows that their caste as Balija at Column.No.10. But, it was specifically shown as Backward Classes in the said column.

g) The DLSC erred in recording that the MRO issued Caste Certificate without proper enquiry as the file relating to the issue of certificate was not available.

h) The DLSC cannot penalize the appellant for non-availability of file relating to issue of Caste Certificate of the appellant. The appellant is no way responsible for non-availability of file in MROs Office.

i) The DLSC erred in recording that the signature of the MRO in the caste certificate dt:28.12.2000 is not tallying. The DLSC ought to have seen that the MRO, Sri.R.Veeraiah (Retired) who issued the caste certificate, gave a statement before the RDO, Kavali that he had issued the caste certificate to the appellant based on the enquiry report submitted by the lower staff.

j) The DLSC ought to have seen that the MRO Sri.K.Veeraiah (Retired) who has issued the caste certificate to the appellant has personally enquired in the village and thereafter issued the caste certificate.

k) The DLSC ought to have accepted the opinion expressed by the RDO that the appellant belongs to Perika community. The doubt expressed by RDO that the appellant's father's name was recorded in the Births & Deaths Register as Balija, cannot be taken into consideration as the father of the appellant is an illiterate and he has no knowledge what has been recorded in the register.

l) The DLSC ought to have examined the records produced by the appellant and not to have entertained the irrelevant material. The DLSC should have provided a reasonable opportunity to the appellant by furnishing copies of the complaint and report of the RDO and also to issue a public notice by beat of the Drum or any other convenient mode in the village or locality of the appellant as required under Rule-8 (6) of the AP (SC, ST & BC) Regulation of Issue of Community Certificate Act, 1993 and Rules 1997.

14. In the reference 5th read above, the Appeal Petitioner viz. Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist.,was requested to attend the hearing on 5-10-2009 before the Government in person or through his Counsel. The hearing was conducted on 05-10-2009 and the Hon'ble M (BCW) has sought information on certain points so as to take a decision on the appeal petition.

15. In the references 7th read above, the Collector & Dist. Magistrate SPS, Nellore has furnished the information on the points sought by the Hon'ble Minister for B.C.Welfare.

16. In the references 8th read above, the Appeal Petitioner viz. Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist, was requested to attend the final hearing on 11-3-2010 before the Government in person or through his Counsel. The Final hearing was conducted at 10:30 AM on 11-3-2010 in the chambers of Hon'ble Minister for BC Welfare.

17. Government after examining the appeal petition, Sri D.Bujaiah, have decided to allow the same on the following grounds.

a) that the field enquiry conducted by the Revenue Officials revealed that Sri Dakavaram Bujjaiah belongs to 'Perika' Caste which is included in the list of BCs. In the Gram Sabha conducted by the RDO in Allur Village, the residents of Village have stated that Sri Dakavaram Bujjaiah belongs to Perika Caste as per their knowledge.

b) that the VRO, Allur, has also stated that Sri D.Bujaiah has matrimonial relation with the families having surnames Parisenati and Ramisetty as per records and the persons having such surnames belong to Perika Caste. The Gram Sarpanch of Alurpadu has stated that people with surname Dakavaram belong to Perika caste and that he is very much familiar with the parents of Sri Dakavaram Bujjaiah.

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c) that Sri Shaik Osman Ahmed, the Panchayat Secretary, Alurupadu has stated that the family members of Dakavaram are enjoying the social status as Perika for the last 30 years.

d) that Sri K.Veeraiah, Retired Tahsildar who worked as MRO from 1988-2002 has stated that he issued Perika BC Caste certificate to Sri Dakavaram Bujjaiah basing on the recommendations of subordinate officers and also by conducting an enquiry. He has also given written statement that he had conducted the enquiry and after enquiry he had issued the certificate.

e) that in the Xerox copy of T.C.Certificate the caste of Sri D.Bujjaiah and his sons is mentioned as 'Perika'.

f) that Sri D.Bujjaiah obtained BC Certificate in the year 2000 where as the elections were held on 2006. From this, it doesn't appear that he has secured the BC Certificate for the purpose of election.

18. Accordingly, Govt., hereby allow the appeal petition of Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist. In exercise of the powers conferred under Section 7(2) of A.P. (SCs, STs and BCs) Regulation of issue of Community Certificates Act, 1993, and Rules, 1997, the Proceedings of the District Collector, SPS Nellore, dated 14-6-2009, are here by quashed.

19. The original records (containing from 1-317) received through the reference 4th read above are returned here with to the Collector & dist.magistrate, SPS Nelore District and the receipt of the same shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT

To:

Sri Dakavaram Bujjaiah, S/o Guravaiah, R/o Allur (V&M), SPS Nellore Dist
The Collector & District Magistrate, SPS Nellore
The Director, B.C.Welfare, Hyderabad
The P.S. to M (BCW)
SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER